

## PROFESSIONAL TRAINING IN VICTORIA

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PROFESSOR SUNDERLAND:

Since the greatest coverage of the subject might well come from the discussion, I propose to confine my remarks to comments on four outstanding topics in medical education in this State. The first will be a brief reference to the size of a medical school; the second, admission policy; the third, selection techniques; and finally, the curriculum.

As regards the size of a medical school we can, without in any way labouring this theme, conclude that it should be such as to permit free and frequent intermixing of senior staff and students, and that it should avoid those organizational and administrative problems which prevent effective functioning of the school. In countries where the highest standards of medical practice and medical education prevail, the United Kingdom, the Scandinavian countries and North America, experience and experiment favour admission figures between 40 and 120. By far the majority of the schools in those countries admit within that range. If we are prepared to accept these admission figures we can proceed without going into more detail. In Melbourne the Faculty of Medicine and the University Council have been reasonable and realistic in coming to the conclusion that the existing school should have an optimum admission figure into the preclinical course of the order of 120, though at the present

time this has been increased to 160. Under existing conditions, however, the present school is grossly overcrowded and there is an urgent need for additional places for the training of students in the community. I mention this point because it is of importance in connection with the establishment of a second University, the Monash University. At the present time one feels that the emphasis in education is leaning well to the technological side, with particular reference to engineering and science. The first Faculty established at the Monash University should, however, be the Faculty of Medicine. There is a shortage of medical men now in the State of Victoria, and Medicine is the only Faculty at the present time which is limiting entry, thereby preventing some students who are well qualified from entering the medical course.

Some of the problems associated with admission policy can best be illustrated by a reference to current practices in some countries abroad. In the U.S.A., the number of students applying for admission to medical schools greatly exceeds the number of places available, so that admission is by selection. Each year, large numbers of students cannot be accommodated in the existing schools. In the early 1950's, it was calculated that the unsatisfied group ranged between 5,000 and 8,000. This very large number of unselected students is one of the factors which has led to a falling off in the interest of younger people in the U.S.A. in medicine as a professional career. There are, of course, other factors operating. In North America, however, no consideration is given to the medical needs of the community when planning intake into the medical schools. The intake is determined solely by medical school policy, and, as I have already indicated, it is based on the thesis that there is a limit to the size of a medical school, and that accommodation and facilities must satisfy high standards.

In the United Kingdom, admission to medical schools is also by selection, but until quite recently there were sufficient places to accommodate all applicants. Selection meant that a student was not necessarily admitted to the school of his first choice. Ultimately, however, all students who wish to enter a medical course are accommodated somewhere in the United Kingdom. In this connection some of the findings and recommendations of the Willink Committee are interesting. This Committee was recently set up to look into the medical manpower needs of the United Kingdom, partly in relation to social services. One

recommendation of this Committee is that the intake into the medical schools in the United Kingdom should be reduced by 10 per cent. If that recommendation is adopted—and I understand that some medical schools have already reduced their intake—a situation will develop in which a number of students qualified to enter medicine will be unable to find a place. Here, then, we have an admission figure influenced by the medical needs of a social service.

In Victoria there is one medical school which has a limited entry. Admission to the pre-medical year is fixed at the figure of 200. At the present time there are qualified students—I won't say how well qualified—who fail to gain admission with the quota operating. Will the creation of a second medical school eliminate these difficulties? There is no doubt whatsoever that the creation of the Monash medical school will ensure that all students who wish to study medicine will be accommodated, and accommodated for probably the next decade. This, of course, will not remove the need for a selection procedure which will be necessary to ensure suitable distribution of the applicants over the two schools. There should be no directive in this matter and all students should be free to apply for the school of their choice. However, there is the possibility that all intending medical students may wish to study at the existing University. They may have good reasons for not wanting to go to the new school. Quite clearly, if all were admitted to the Melbourne school there would be no need for Monash. Some formula will need to be found to cover the distribution of students over the two schools. In view of existing policy it seems obvious that the Melbourne school should limit entry and that those who are not admitted there should go to Monash. This may be a little hard on the new school but, in the not too distant future, a third medical school will be needed, and the third school will then, perhaps, be in the unfortunate position that Monash is likely to occupy for the next five years. This is all part and parcel of the process of growing up. It seems inevitable that selection must continue in this State, particularly with reference to the existing school. That being the case, what are the qualifications for admission, and how are they to be evaluated? Here, academic performance must always be a determining factor. In other words, a student must be of a certain academic calibre before he is admitted. This does not mean that all applicants should fall into the brilliant class. The community is made up of

ordinary men and women and these are the groups that we must be prepared to accept for Medicine. It is generally stated that a student who does not fall within the top half of his class should not apply to enter Medicine. This may be a rough rule, but it is a useful guide to academic performance. In this connection, the question of prerequisites is important. Whether we like it or not, passes in Chemistry and Physics or Mathematics are going to be prerequisites for admission to the medical course. The performance of students who are admitted to the pre-medical year without matriculation passes in Chemistry, and Physics or Mathematics, is, generally speaking, appalling. This represents a very costly experiment in education and one that no University can afford. The University has, in the light of bitter experience, found it necessary to reintroduce prerequisites for Medicine to cover Chemistry and Physics or Mathematics. Such a programme, however, still leaves adequate room for the general education that the community talks so much about these days. A further point relates to the number of attempts a student takes to matriculate. Unless a student can matriculate within two attempts, he should not be admitted to Medicine. This policy is both sound and realistic. Personal qualities need to be looked at very carefully. The person with the outstanding academic record must be admitted. Those groups of students who are evenly matched on the basis of their academic records need to be investigated very carefully with a view to evaluating, so far as it is possible to do so, their personal qualifications for admission to Medicine. Over the last three years we have been interviewing applicants whose academic records group them above the 200 figure, and we have found the personal interview of great value in making a final choice. The family background of the individual frequently influences the outcome of the interview because applicants with a family background of medicine are usually more definite and precise in their reasons for wanting to do medicine.

So far as the curriculum is concerned my own feeling is that there is far too much talk about the curriculum and not enough about the qualifications of the people who are teaching it. The literature relating to modifications in the curriculum is becoming very extensive now, particularly over the last ten years. A great deal of time and effort is spent manipulating subjects and hours within the curriculum, while the qualifications of the teaching staff are rarely considered. This needs correction. In

general terms, so far as a five or a six year course is concerned—depending upon whether you regard the premedical subjects as belonging correctly within the Medical Faculty, or to some undefined body in the University—we could summarize by saying that the medical curriculum should be designed to provide a foundation on which to build the special requirements of the general practitioner. We have now reached a situation where many regard the general practitioner as being a somewhat specialized person, so that the medical course should be designed accordingly. On completion of such a basic course, the graduate is then free to move in one of a number of directions and here, of course, postgraduate education becomes of importance. We have gone some way towards building up a postgraduate system of medical education in this State, but I do not think we have gone far enough. The limiting factor is again finance. Other points relating to the curriculum, for example, individual subjects and so on, are better deferred because our first consideration should be the personnel who are responsible for making the curriculum work efficiently and effectively.

PROFESSOR COWEN:

Mr. Chairman, you have observed, Sir, that the introductory speakers have a twenty-minute time limit, and I propose to respect that because the important things in tonight's discussion, I think, will emerge from what is said on the floor, and I hope that I will be pardoned if I speak in fairly dogmatic terms. This will make it much easier to state my views within the time limit. I should like to say that I am very glad to have the opportunity of expressing some thoughts on this subject, and I am particularly glad to have the opportunity of participating in a discussion on legal education.

I have been concerned with legal education all my life. I am a professional law teacher. As a law student, I studied in Melbourne and at Oxford, and I have taught in three countries—in England, in America and in Australia—so that much of my life has been concerned with law teaching and with thinking about law teaching. I believe that the experience I have had in these various countries and jurisdictions has enabled me to test some hypotheses and, I hope, to think through a number of problems connected with legal education.

I should like to say also by way of preliminary observation that the Melbourne University Law School faces many difficult

problems. The student body is already around the one thousand mark, and this makes the School one of the largest in the English-speaking world. At the same time its physical facilities are disgracefully inadequate, and while it is true that, to some extent, as a result of the acceptance of the report of the Murray Committee, our staffing position has been substantially improved, our physical facilities are grotesquely inadequate.

Having said so much, I turn to my first question and I ask in the broadest terms what are the purposes of legal education. This leads on to a second question, which is whether the teaching of law is a proper University discipline. In this connection let me observe that for a long time many lawyers were trained by an apprenticeship system. Until comparatively recently in England the study of the law was not thought to be a University discipline. This at least applies to the living law, for the Universities went on teaching the ancient Roman law. If one looks back not too far at the biographies of some notable English judges, one will find that the education they had in the law was very sketchy indeed. At the Universities they studied Greats or Mathematics or History, and often took distinguished degrees in these fields. Then they hurriedly crammed for the Bar examination in the space of a year or so, and then began their careers as pupils in Chambers. From this they became leaders of the Bar, and subsequently as judges they made distinguished contributions to the law. This may prompt us to ask, "Are we not making a great deal of fuss about nothing when we talk about the need for legal education in the Universities?" My own belief is, and I say it quite dogmatically, that there are great benefits in a University legal education and that it is a proper University discipline.

A very distinguished Australian judge has said that law can be taught under a palm tree. I suppose you can teach almost anything to the very best students under a palm tree. In general, the very best need least teaching because they will teach themselves, although of course the best become better for first-class instruction. But it distorts the approach to legal education, and indeed to any education, if we fix our minds only upon the very best. It is not a cynical view of humanity to say that the truth of the matter is that most of us are not the very best, that most of us are rather average. As average, however, we benefit from education, and I should think that a palm tree is a most uncomfortable place as a situs for education.

My first proposition is that I believe that a rigorous training in legal principle within a University is desirable and valuable. Having said so much, I must immediately introduce some qualifications. There are obvious limits to what a University can give by way of legal education. In the law, as indeed in all professions, there are so many practical skills, there is so much practical "know-how", that can only be acquired through practical experience, and a law school would waste its time and, as it seems to me, would follow false trails if it were to attempt to teach students practical skills of this type. These things are so much better learned on the job, and a law school must not be led away from its true purposes by attempting to teach what can only be learned in practice. There is another problem: there is so much law in so many fields, and a law school can only hope to teach a fraction of what there is to be known. It is a great mistake for a law school to attempt to teach a panorama of the whole legal system. That, as it seems to me, is a dangerous and futile programme, and in any law school we must set ourselves a very different and highly selective programme. Let me say by way of parenthesis that every law school slips in this respect. It always seems that it is desirable to give at least a short course in this or that, or to add a little more to existing courses. Every law school that I know which thinks about the problems of legal education is faced with the overloading of its curriculum. As a Dean, one is constantly confronted with eager colleagues wishing to add an hour a week to the course in X or Y. As Law Faculties we have to be on our guard against overloading our curricula. We have at all times to keep in mind the central question of what is peculiarly relevant for this time and this place, and we must be willing to assume, if we do our job of training properly, that what we omit from the curriculum will be capable of being understood and mastered by lawyers whom we have trained in law schools.

What, then, is it that we should teach? It seems to me that one of the major faults of some of the older schools of law in the United Kingdom, and the one I know best is Oxford, is that much of the law it teaches is not the "living law". The words "living law", I suppose, are pretty loose. But it seemed to me from my Oxford experience that what was taught there in my time—and it is safe to suppose that it was worse at Cambridge—centred too much on the details of Roman law and when it came to contemporary law was too much concerned

with traditional common law. Let me say that I greatly value what I learned at Oxford; it was taught thoughtfully and deeply, but much of it seemed out of line with the legal problems with which contemporary English society was much concerned. I believe that a law school fails in its purpose unless it faces the question of determining what is important in the law as it is. It is neither useful nor meaningful to teach a legal system which bears a tenuous relationship to reality. It is one thing to say this, of course, and another to give it practical expression. I certainly do not propose at this stage to develop my views of what a curriculum of the living law should include. No doubt there are differing views about the content of the living law, but it seems to me that the objective must be borne constantly in mind, and I must say that I fear that in some law schools anyway the teaching of living law is not regarded as of prime value. I hope that it is with us.

I turn next to the question of teaching method. It seems to me that if we are to be successful in teaching law we must aim at immersing our students in a discipline of rigorous analysis. It is not enough that they should sit back in the lecture theatre and receive a nicely rolled out essay on the law, attractively simple, and stating a few general and elementary points. Law is a good deal tougher and more complex than that. I do not mean that it is the task of legal education to require our students to be concerned with every minute refinement of doctrine, but it is the task of legal educators to make students aware of the fact that they are facing difficult problems, that doctrine is not necessarily clear and simple. We have to make students face these problems with highly developed analytical lawyer-like skills. In company with many of my colleagues I believe that we cannot tolerate a system of legal education in which the students are trained by formal lecture methods. We insist on participation by students in legal argument. We test problems in our classes by way of question and hypothesis. We encourage argument between student and teacher and between student and student. We have been profoundly influenced by developments in American legal education though we are not simply copying other systems. What we are attempting to do is to shape what we have seen in America to our own needs. I repeat that we are convinced that the formal lecture is not a satisfactory technique of legal education and that law teaching must be a process in which the students actively participate.

I have spoken a good deal about tough analysis, but it seems to me that legal education is not only concerned with analysis of the law as it is; it is also concerned with criticism of the existing law. It is very important that teachers of law should make their students aware of the desirability, indeed of the necessity, of maintaining a critical approach to the fabric of the existing law, always bearing in mind that criticism should be constructive, and not merely footling and carping.

Let me add this point about methods of legal education. If you teach by the techniques I have described, the size of classes must obviously be limited. I do not believe that you can teach law effectively in vast lecture halls with hundreds of students. Our view is that what we describe as a "lecture class" should not exceed 120 students, and in such a class the object should be discussion of the broader principles in a particular subject. Classes should also be broken up into much smaller tutorial or seminar groups in which there can be much fuller and closer examination of problems. All this means that legal education becomes more expensive in terms of the number of teachers and of the accommodation which must be provided. But if it is to be any good, in my view, it must be done in this way.

The training of students in tough analytical skills is not the only thing to be done. The law is very much concerned with a mass of social and economic problems. I believe that it is very important that law students should be made aware in the course of their legal education of the social and economic problems with which the law, in its particular problems, is concerned. One can go too far; in some schools the teaching of law becomes blurred because discussion becomes too deeply embedded in broad discussions of sociology and economics and the like, and one feels that no distinctive legal training emerges from the mess. On the other hand, a law school purely concerned with positivism and analysis within a narrow legal framework also falls down on the job.

If law students are to be aware of the social and economic problems of which I speak it seems to me that they must have an adequate pre-legal education, otherwise they are in no position to understand with any sophistication the social and economic context of the law. I am inclined to think that in terms of pre-legal education, expressed in this way, we do not do a very good job. In the Melbourne law course we attempt to

give students some "general education". I think it is unsatisfactory because it allows the students to take bits of this and bits of that, and I do not think that we have coherently thought out what we are doing. In most good schools in the United States, a student before entering law school spends three or four years in college. The theory is that before he goes to law school at the age of 20 or 21 he should have a general education so that he will be more mature and so that he will be better able to understand the social and economic context of the law. The theory unfortunately does not always correspond with the practice. Not infrequently many of the American colleges give a defective pre-legal education, so that the law student is older but not better educated. If the American college system were better, deeper and tougher, it would furnish an excellent pre-legal training, and I would dearly wish that we could provide such a training for our students. Apart from anything else, I would wish for it because I think that most of us who are involved in teaching law would agree that students are better equipped, are much more receptive to legal education, if they come to a University to study law at the age of 20 rather than as 17-year-olds. It seems to me that it is doubtful whether law is properly taught to people at that age.

My time is running out, Mr. Chairman, and I could go on far beyond this. There are one or two comments I must add. I have said that we should in teaching law be aware of the context in which the legal system operates. It seems to me that there is much value in maintaining in our curriculum jurisprudential subjects which enable us to look at our legal system as a whole and to ask some broad philosophical questions about it. It seems to me that it is desirable that we should teach Comparative Law—not a detailed study of some rubric of the Roman law—so that we can have some general awareness of the way in which other people and other systems approach legal problems. I think it is important that we should teach Public International Law so that our lawyers will be capable of taking a broader and more intelligent interest in legal problems of the international sphere.

I should like finally to mention the matter of the teachers of law. In an earlier generation law teaching was done by legal practitioners who came out of their chambers and offices and taught for an hour or two, and returned to their offices. The Melbourne University Law School started with one professor

and the rest of the teaching was done by practitioners. This went on for a long time, and although the balance has shifted so that nowadays the emphasis tends to be on the professional teacher, we still have a number of practitioner teachers. It seems to me that in the mansion of legal education there is an important place for the professional and for the practitioner teacher. But it seems to me also that each should be kept in his proper place. The professional teacher is generally not immediately in touch with the day-to-day problems of the practice of the law. He is out of the rough and tumble. In part that is good, in part it is unfortunate. But it must be remembered that teaching itself is a painfully learned art which, except for the genius, is not picked up by going to the rostrum and starting to talk. Some of our practitioner teachers have been very good, others mediocre, and others very poor. This, of course, is true of our professional teachers as well. But I would say very briefly that it seems to me that in legal education there is a place for both types of teachers. The practitioner teacher's job is to convey to students that which only the man engaged in the day-to-day practice of law can convey. He should be able to infuse into the subject he teaches something of his "know-how", something of his experience. In working out and assigning teaching responsibilities it seems to me that the professional and practitioner teachers should be assigned to the fields of their particular competence, and I have no doubt that in an ideally equipped law school there is a place for teachers of either kind, each possessed of his particular skills and each doing the job which his particular training equips him to do.

DR. C. H. DICKSON:

In 1953 I had the privilege of attending, in London, the First World Conference on Medical Education, sponsored by the World Medical Association, which met under the chairmanship of the late Sir Lionel Whitby. At the opening of the Conference Sir Richard Livingstone, sometime President of Corpus Christi College, Oxford, delivered a masterly address, "What is Education?", in which he spoke of the three elements, body, mind and soul, which combined in our personalities, and he said that the needs of these three elements determined the aims of education. It should prepare us to earn our own bread, it should give us some understanding of the universe and of man, and it should help us to become fully developed human beings. He

referred to what he called "the philosophy of the first-rate", and considered that the best educated man is he who knows the first-rate in the most important human activities, and that our education should train our youth to desire, recognize and pursue the first rate.

If that thesis is true, then are we succeeding or failing in the education of our medical students?

We hear repeated pleas for "a broader cultural background", of "education in the humanities", of training in the use of the English language and of coherent expression in both the written and the spoken word. As a schoolboy, with many of my generation I had the elements of Latin instilled into me (most of which I have forgotten), no Greek, some elementary mathematics and a good deal of English literature and history, plus physics and chemistry. Forty years ago, on matriculation one could enter the Medical School of our University with Latin and Geometry only as compulsory subjects, while many embarked on and succeeded in passing the first year of medicine with no school background of physics and chemistry. Were they ultimately any the worse doctors for that? I doubt it. Yet, today, what do we find? The youngster of 13 or 14 years who "wants to be a doctor" is told he is wasting his time because he is "no good at maths" or, alternatively, that he must concentrate on mathematics, physics and chemistry, to the exclusion of cultural subjects; otherwise he will not be in the "quota". Every year in Victoria some 400 boys and girls who have matriculated desire to become doctors and at least 50 per cent of them will be denied admission to the "pre-medical year". Presumably they all know of the quota and have planned their school careers to embrace those subjects—physics, chemistry and mathematics—which are considered to be so essential, and presumably, also, they have, perforce, neglected general education, the humanities and eschewed those recreational activities so important in the "growing-up" stage of young people.

The organized medical profession in this State has objected most strongly to the quota system, but it cannot be denied that all medical schools throughout the world limit the entry of students, and the authorities of our own University claim that a quota is essential because of physical limitations of space and staff.

Is it sound practice, however, to determine the admission of students to the course by the use of a mathematical formula,

with complete disregard of the personality, aptitude and motivation of the potential doctor? Certainly the present system is so impersonal and so free from any suspicion of nepotism that superficially it is the best, but many of us suspect that under it we are losing, and losing for ever, good "doctor material".

I am well aware of the dangers and criticisms of the system of selection by personal interview, but it is used in selecting candidates for the Naval College and the Royal Military College and, with adequate safeguards, I feel it would be better than the method now in use. I doubt whether any of you present here would consider the engagement of an employee without personal assessment, and more and more the interview is being used in the industrial field to determine fitness for employment and aptitude for particular tasks.

Further, the University authorities maintain that they are not concerned with community needs—their first responsibility being the maintenance of standards of education—but community needs cannot be disregarded and we need more doctors. A second medical school is on the way, I hope, and may solve some of the problems I have mentioned.

And what of the teachers? Throughout the world, but fortunately not so marked in our own University as in some schools, the pre-clinical teachers of chemistry, physics, biology, anatomy, bacteriology and physiology are, in increasing numbers, non-medical graduates in science. Admirable though they may be as scientists, they lack the knowledge of what makes a good doctor, and the production of good doctors should be the aim of medical education, not the production of research chemists or atomic physicists.

And what of the selection of teachers? I quote without comment a paragraph from a letter from the President of the Victorian Branch of the Australian Institute of Agricultural Science in reference to the failure rate amongst students, published in the *University Gazette* of December, 1957: "Another line of exploration which might be tried in connexion with this very important matter would be to ensure that each lecturer in first year science subjects has attended a course in the principles of giving instruction."

I suspect that by now you are thinking: "This fellow is just a damned iconoclast", but I have been deliberately iconoclastic to stress my belief that under our present system of medical education there are inherent dangers and that the doctor the

community needs is the man (or woman) with a sense of vocation, a good general education, who has been properly trained in his job and, above all, one who has a feeling for his fellow men and a deep and abiding sympathy and understanding of the frailties of humanity. In the words of Sir Richard Livingstone, Medicine needs men and women with a "philosophy of the first-rate".

DR. E. G. COPPEL:

May I first of all express to you, Mr. Chairman, my gratitude for the explanation you gave for the order in which the names appear on the notice paper. With a dim recollection of school-boy cricket, I had thought that I was again last in the batting order. I propose to make just a few discursive remarks .

Unlike Professor Cowen, my experience of legal education has been confined to this State, but as I began my study of the law before Professor Cowen was born, perhaps you will forgive me if I start with the past. When I first began my University course, we had a four year course, the first two years of which were devoted to what I might call Arts subjects. We then had two years' legal training. At the end of that—all being well—we got a degree, and after a year's articles we were admitted to practice. Now, I am not sure that we were very clear what was the purpose of the two years that we spent in the Arts School. It may be that the idea was that before you commenced to learn the law you should have a general education. It may have been that before you began learning the law it was thought that you ought to have had some hard training in some branch of learning, which would mean that you could turn to the law as a person already accustomed to study. It may have been, on the other hand, merely a subtle way of ensuring that people did not begin to learn the law until they were at least moderately mature and had long passed the schoolboy stage. But whatever the reason, that was the way in which one did a law course.

Nowadays, the course is still four years with a year's articles in order to qualify you for admission to practice, but the student begins his law subjects in his first year at the age of seventeen. All that is left of the general education is three miscellaneous Arts subjects, so designed that the student will know nothing about any of them, because he stops them all too soon. So, by the time students come into the hands of Professor Cowen and

his colleagues, they have no general education. They have not been thoroughly trained in anything, and they are not mature. It may be that we have reached the stage at which we feel that two years' training in law at the University is not enough. I am disposed to think that is right, and I think we need three years. If we do, I do not see why we should add that year of legal training at the expense of the general education which used to prevail, and my own view is that we should retain, before the law course is started at all, two years in which the student studies some group of subjects in the Arts School. I think it is too much to ask that he should do a B.A. course, but I do think that in those two years he should have an intensive training in some branch of general education. I do not myself think that it matters very much whether he studies History or Classics or Mathematics or Economics or General Science. I do think it is important that he should study one of those groups and not have a little bit from each of them as he does at present, because I think if he does confine himself to one branch of study, at the end of two years he has learned or should have learned something that he can retain for the rest of his life.

So much for what I might call the preliminary training. What about the Law itself as a subject of academic study? One of the difficulties, of course, is that nobody has ever agreed with anybody else what the Law is. If you look at it from one aspect, it is a science which calls for acute powers of reasoning and analysis. If you look at it from another aspect, it is a social institution, one of the pillars of society, or you may look at it from still another aspect and say that it is an art which is practised by people who earn their living as lawyers. In point of fact, it contains in some measure all three. Any law course must afford an opportunity for the cultivation of all three aspects of the law. You will need to have in your curriculum some knowledge of the history of the legal system, some knowledge of its philosophy, some idea of how our own system compares with at least one other developed system of law. You will need also to know something of the public law, where the Government fits into the legal system, and what are the relations between the Government and the citizen. And you will also, of course—and that is the part that looms largest for the practising lawyer—need to know something of what might be called the private law, the rights and duties of the citizens. Of course, that is the part of the law which very largely is worked out in

the Courts and on which legal procedure—in which for the moment I include the law of evidence—is based.

You will see at once that those different types of study plainly call for different treatment, for different methods of teaching and for teaching by people of different experience. If I were to venture on any criticism of the excellent address that you heard from Professor Cowen, it would be simply this—that I rather thought that he regarded legal teaching as a single thing. For my own part, I think that is dangerous. I think that legal teaching must differ according to what branch of the law you set out to teach. Jurisprudence calls for the broad philosophical mind, and those of my colleagues here who are practising lawyers I hope will not mind my saying that you find it best among the academics. The public law calls also for a special type of training and a special type of teaching. The law which the Courts spend most of their time administering cannot, I believe, be understood or taught by those who have never taken part in its practice. For that reason I would agree with Professor Cowen that what are quaintly called in our University “independent lecturers”—by which is meant professional men who give their time for an inadequate remuneration to instructing students—must in my view, as in Professor Cowen’s, be retained in any system of legal training. I am not myself disposed to go as far as the late Mr. Bernard Shaw, who said, “Those who can, do; those who can’t, teach”. The method of training Professor Cowen has said something about. He stressed the value of the student participating in discussion with the teacher. I agree that at some time and in some subjects that is true. I would not accept it as a universal proposition. There are, I think, some spheres in which the formal lecture—notwithstanding that it has, I gather, a tendency to produce a supine attitude in the student—still has its place. I think that the solution of case problems, either written or by way of discussion, is also important, but I think you have to fit these things into their proper place. The fact of the matter is, so far as the independent lecturer is concerned, he is by the very nature of his calling almost invariably limited to the delivery of formal lectures. He simply cannot find the time to hold discussion groups with his classes.

Now, may I say something on the curriculum. I agree with Professor Cowen that it is absurd for any University to attempt to teach the whole of the law. With perhaps one exception, I do not know of anybody who does know the whole of the law.

I do not really see why anybody should. It is quite impossible in practice to practise every branch of the law and do them all well, and the wise man does not attempt it. Why then should we endeavour to teach the student everything? No one is in any doubt which of the subjects in the law curriculum are the fundamental ones. No one doubts, I hope, that the best thing that you can give to a student when he passes out of the law school is some knowledge of legal methods of reasoning, something of the legal technique, and a grasp of a comparatively limited number of principles which run right through the law. Like Professor Cowen, I deplore the tendency which in the last twenty years has been growing in the University to add to the curriculum one more subject after another. The pressure came very largely from solicitors who said—and I have heard this on the Faculty of Law until I was sick of it—"Nine out of ten of your students are going to be practising solicitors"—I think the figure was a gross exaggeration, but that is neither here nor there—"What is the use of teaching them this or that subject? Why teach them the history of the law? Why not teach them something which will be useful in the office?" To the shame of the Faculty of Law, that pressure had its effect, and we do now offer courses in a variety of subjects which, to my mind, have no place in the law school at all. If we did not do that, we could get back to the three years' training which seems to me to be adequate. You may if you like in the final year put in a group of those subjects and let the student take one which he thinks is going to be his specialty, but I would apply to the law course what Dr. Dickson said about the medical course—"Let the specialty come after graduation, and not before".

One other word about the curriculum. There has seemed to me in recent years to be a tendency on the part of those who teach in the Law School to overload the student with far too much reference material—to cases and articles and periodicals until the wood becomes quite invisible and the trees convey very little to the student. I think that tendency has got to be reversed.

Perhaps I have been somewhat critical of what goes on in the Faculty of Law in the University, and I think it proper to conclude what I have to say by telling you that in my opinion the Law School in the University of Melbourne is one of the great Law Schools in the English-speaking world, and I think it

will remain so as long as it is not satisfied with what it is doing at the moment.

### *Discussion*

DR. A. J. M. SINCLAIR said that if there were any members of the legal profession who contemplated permitting their sons to study medicine they ought to be informed of the practical difficulties. As early as the leaving certificate stage the student should be made to concentrate on mathematics, physics and chemistry and to abandon most other studies and all recreation. Assuming that in due course the student matriculated at his first attempt, it would be a mistake to think that in a further year at school he could safely engage in non-technical subjects and sporting activities, because when he came up for selection for the medical course his total results would be taken into consideration. When ultimately this student got to a hospital, he would have developed into a tough and aggressive specimen, reluctant to show one of his fellow students a case for fear that to do so would deprive him of an advantage in knowledge. This seemed to be the pattern of the future physician, and it was a long way from the ideal of the past.

MR. JOHN KINNEAR said that the size of the Law School prevented the students from having the advantages to be derived from discussion in small groups. He had learned that comparative law was not a compulsory subject and in some years was not the subject of lectures at all. The absence of a study of comparative law made it impossible for the locally trained lawyer to appreciate the problems of, or even engage in intelligent discussion with, for instance, an Asiatic student or a practising Asiatic lawyer.

DR. M. C. DAVIS said that he had observed that medical students in the final years of their course had no understanding of people. The prerequisites upon which selection for the course depended were such that the student's ability to deal with and understand the people with whom he came in contact was not taken into consideration.

DR. G. PENINGTON said that it was the Faculty of Medicine which had initiated suggestions for broadening education at the matriculation level and for reducing prerequisite subjects for University courses. The Faculty suggestions were tried, and

as a result of experience it was realized that students in their first year at the University, the pre-medical year, were being submitted at the end of the year to examination in subjects of which they had had no knowledge prior to entering the University, and in which their ability had never been tested. Accordingly the Faculty had recommended that there should be two prerequisites—Chemistry and Physics or Mathematics.

As to selection, he felt that the best and fairest possible selection had been made.

As to tutorial and clinical teaching, a great deal of training given in the hospitals had been given by practitioners acting in an honorary capacity. He had estimated that the annual cost to one hospital if these teachers were to be paid would be £45,000. At some stage he felt it would be necessary for the University to realize that this teaching must be subsidized.

MR. PETER BALMFORD said that his experience as a resident tutor at a University College had shown that the demands made upon the day by day time of the medical student were such that it was almost impossible for him to derive from life at the University what ought to be its greatest advantage—association with his fellow students.